

Key Numbers: 146-04500-0046  
(79-11-07-126-002.000-031)

### **COMMITMENT**

THIS COMMITMENT made this \_\_\_\_ day of \_\_\_\_\_, 2012 by Southern Winds Apartments, LLC (the “Petitioner”), pursuant to Indiana Code § 36-7-4-1015.

1. Petitioner makes this commitment with the consent of \_\_\_\_\_, the record owner (the “Owner”) of certain real property (the “Real Estate”) located in Lafayette, Tippecanoe County, Indiana commonly known as 631 W 300 S, Lafayette, Indiana, and more particularly described in **Exhibit A** attached to the Notarized Consent filed in connection with Petition No. Z-2499 filed with the Area Plan Commission of Tippecanoe County (“APC”).

2. On June 18, 2012, Petitioner, with consent of Owner, filed a request with the APC to rezone the Real Estate from A&AW to R3 (“Petition No. Z-2499”).

3. Petitioner hereby agrees and commits that any and all residential apartment units constructed and/or located upon the Real Estate shall be Market Rent units. For purposes of this Commitment, the term “Market Rent” shall mean the rent that a residential apartment, without rent or income restrictions or rent subsidies, would command in the open market considering its location, features, and amenities subject to adjustments for owner paid utilities included in the rent and discounts given to a prospective tenant to induce the tenant to sign a lease.

4. Petitioner understands and agrees that this Commitment is given as a condition to the recommendation by the APC and the approval by the Board of Commissioners of Tippecanoe County of the rezoning request represented by Petition No. Z-2499. Petitioner further understands and agrees that such approval by the Board of Commissioners of Tippecanoe County constitutes good and valuable consideration for the giving of this commitment.

5. This Commitment shall be a covenant running with the Real Estate and binding and enforceable against Petitioner, any subsequent owner, or any other person who acquires any interest in the Real Estate. Any change in this Commitment shall only be made by an amendment to this Commitment with the approval of the APC at a public hearing in accordance with all APC rules and regulations.

6. Petitioner agrees that Tippecanoe County, the APC, and the Area Board of Zoning Appeals of Tippecanoe County shall each be a “specially affected person” under Indiana Code § 36-7-4-1015(d)(3) and shall each, in its sole discretion, be entitled to bring an action to enforce the terms and conditions of this Commitment in the Circuit or Superior Courts of Tippecanoe County, Indiana.

7. This Commitment shall automatically terminate upon the occurrence of any of the following: (i) a change in the zoning classification of the Real Estate, (ii) a change in the land use to which this Commitment relates, and/or (iii) otherwise in accordance with APC rules and regulations.

SOUTHERN WINDS APARTMENTS, LLC

By: \_\_\_\_\_  
Brian W. Walker, Member

STATE OF INDIANA                    )  
  ) SS:  
TIPPECANOE COUNTY                )

Before me, a Notary Public in and for said County and State, personally appeared Southern Winds Apartments, LLC, an Indiana limited liability company, by Brian W. Walker, its Member, who acknowledged the execution of the foregoing Commitment.

Witness my hand and Notarial Seal this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

\_\_\_\_\_  
(written)  
\_\_\_\_\_  
(printed)  
NOTARY PUBLIC  
Resident of \_\_\_\_\_ County

My Commission Expires:  
\_\_\_\_\_

This instrument prepared by: Joseph T. Bumbleburg, of the firm of BALL EGGLESTON PC, 201 Main Street, Suite 810, P.O. Box 1535, Lafayette, Indiana 47902-1535. Telephone: (765) 742-9046  
I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law.

**CONSENTED TO AND APPROVED:**  
Tippecanoe County Commissioners

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Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2012.